

Chairman Tom Davis
Committee on Government Reform
Hearing, "Intellectual Property Piracy:
Are We Doing Enough to Protect U.S. Innovation Abroad?"
Opening Statement
September 23, 2004

I would like to welcome everyone to today's hearing on intellectual property rights and the effectiveness of our efforts to protect U.S. interests from piracy abroad. The Committee will focus on counterfeiting and piracy in foreign countries of software, movies, music, and designs for consumer and industrial products that are protected by U.S. intellectual property laws.

Everyone knows that the United States is the greatest source of creativity in the world today. Our products, be they movies, music recordings, designer clothing, ship and airplane parts, fast food, or computer software, can be found in every market in every country in the world. If markets for U.S. goods derived from intellectual property are to be sustained and expanded, our products must be adequately protected in every market where they are found. Otherwise, jobs will be lost, not only the jobs of executives or movie stars or recording artists, but also technicians, carpenters, factory workers, and retailers. Moreover, consumer safety will also be in jeopardy, if knock-off goods, such as airplane, ship, or auto parts, or consumer products get into the mainstream of commerce and fail to perform as expected. Incentives to stimulate and encourage innovation will also be diminished, as capital necessary to foster this creativity will be lost to illegitimate interests.

Counterfeiting and piracy of U.S. intellectual property in foreign countries is rampant. Counterfeited editions of U.S. software, movies, music, and designs for consumer and industrial products can be found in markets throughout the world. I know, because I witnessed it in China in August. Several of my staff also saw it in Russia and Poland recently. On the table to my left, you can see both real and counterfeit movies, music, and consumer goods provided by GAO. The real and counterfeit goods appear indistinguishable. In addition, the manufacture and sale of these items has become a significant global business. It is difficult to assess the exact economic losses, but the Office of the U.S. Trade Representative (USTR) reported that U.S. companies lost between \$200 and \$250 billion in 2003 because of piracy and counterfeiting.

Our copyright, patent, and trademark laws protect intellectual property domestically, but foreign intellectual property laws are often either totally lacking or woefully inadequate to protect legitimate U.S. intellectual property interests. Those countries that do have laws often do not enforce them. Enforcement efforts by many foreign governments have come under increased criticism as being ineffective.

Federal law charges a number of different U.S. Government agencies with responsibility for securing more comprehensive and effective protection of U.S. intellectual property rights abroad. The functions fall in three categories:

- First, policy initiatives, such as negotiating trade agreements with foreign governments and coordinating with international organizations such as the World Trade Organization and the World Intellectual Property Organization;
- Second, Federal law enforcement actions, including multi-country investigations, seizure of goods at U.S. Ports of entry, and patent and trademark infringements; and
- Third, training and technical assistance programs for foreign governments.

The agencies that have responsibilities for these activities are USTR, the Departments of State, Commerce, Justice, and Homeland Security, the U.S. Patent and Trademark Office (USPTO), the U.S. International Trade Commission (ITC), the U.S. Agency for International Development (USAID), the Federal Bureau of Investigation (FBI), and the Library of Congress's Copyright Office.

The complexity of this issue requires coordination of specific functions among the Federal agencies involved. Formal efforts include the National Intellectual Property Law Enforcement Coordination Council (NIPLECC), which was created in 1999 by Congress to coordinate law enforcement efforts among the various responsible Federal agencies. The USTR also coordinates efforts to protect U.S. intellectual property through the Special 301 review, which consists of annual assessments of the effectiveness of foreign countries' efforts to protect U.S. intellectual property. Less formal coordination is ongoing at individual U.S. embassies in countries where intellectual property violations are severe.

Private industry has taken action to enforce and protect its intellectual property rights abroad. A number of industry associations engage in collaborative efforts to advance foreign governments' protection of U.S. interests.

Because of the severity of this piracy problem and the vital importance of protecting U.S. innovation throughout the world, we asked the Government Accountability Office (GAO) to review and assess Federal agencies' responsibilities and efforts to combat intellectual property piracy in foreign countries. GAO has completed its study. The report, entitled "Intellectual Property—U.S. Efforts Have Contributed to Strengthened Laws Overseas, but Challenges Remain," confirms the severity of the piracy and counterfeiting problem. The report finds that agencies are actively engaged in combating this problem and have made progress in persuading foreign governments to strengthen their intellectual property laws. However, the report concludes that enforcement of those laws remains a major challenge. The report recommends that NIPLECC's authority, structure, membership, and mission be strengthened.

The Committee will first welcome Congressman Rob Simmons, who will tell us about a manufacturer in his Connecticut district that has experienced piracy and counterfeiting of its fuel gauges.

We will then receive GAO's assessment of the intellectual property piracy problem as it relates specifically to U.S. software, movies, music, and designs for consumer and industrial products, and its recommendations for strengthening U.S. efforts to protect those U.S. products.

Although, we invited Federal government agencies responsible for intellectual property protection abroad to testify today, they were unable to do so at this time. While I am disappointed by their absence, we are working with the Administration to develop coordinated and effective reforms that will enhance the protections of U.S. intellectual property rights abroad.

Finally, the Committee will hear from private industry that is victimized by intellectual property piracy and counterfeiting in the world market. We particularly want to receive their assessment of not only the situation they face in international markets, but also their own enforcement efforts in foreign countries.

This is an important issue that will receive increased attention in government and industry circles. In particular, we need to focus on enhancing foreign governments' enforcement efforts. The fact that the Senate CJS Appropriations bill for Fiscal Year 2005 includes \$20 million for NIPLECC and directs that entity to take more specific action to enhance intellectual property law enforcement internationally is one vehicle to consider. Over the next few weeks, we will be in a better position to determine whether enhancing NIPLECC is the best solution or whether other measures should be taken. In light of this urgency, I felt that it was essential to proceed with this hearing today and hear GAO's findings and the industry's assessment of the situation so that we can expeditiously craft an appropriate response.

I would like to thank all of our witnesses for appearing before the Committee, and I look forward to their testimony.